

1 Pamela K. Fulmer (SBN 154736)  
Chantelle C. Egan (SBN 257938)  
2 JONES DAY  
555 California Street, 26th Floor  
3 San Francisco, CA 94104  
Telephone: (415) 626-3939  
4 Facsimile: (415) 875-5700  
pkfulmer@jonesday.com  
5 cegan@jonesday.com

**\*\*E-Filed 5/28/2010\*\***

6 Brian Selden (SBN 261828)  
Michael J. Klepich (SBN 260574)  
7 JONES DAY  
1755 Embarcadero Road  
8 Palo Alto, CA 94303  
Telephone: (650) 739-3939  
9 Facsimile: (650) 739-3900  
bgselden@jonesday.com  
10 mklepich@jonesday.com

11 Attorneys for Defendant  
RECKITT BENCKISER INC.

12  
13 UNITED STATES DISTRICT COURT  
14 NORTHERN DISTRICT OF CALIFORNIA  
15 SAN JOSE DIVISION

16 SAN FRANCISCO TECHNOLOGY INC.,

Case No. 5:10-cv-00966-JF

17 Plaintiffs,

18 v.

19 THE GLAD PRODUCTS COMPANY,  
BAJER DESIGN & MARKETING INC.,  
20 BAYER CORPORATION, BRIGHT IMAGE  
CORPORATION, CHURCH & DWIGHT  
CO. INC., COLGATE-PALMOLIVE  
21 COMPANY, COMBE INCORPORATED,  
THE DIAL CORPORATION, EXERGEN  
22 CORPORATION, GLAXOSMITHKLINE  
LLC, HI-TECH PHARMACAL CO. INC.,  
23 JOHNSON PRODUCTS COMPANY INC.,  
MAYBELLINE LLC, MCNEIL-PPC INC.,  
24 MEDTECH PRODUCTS INC., PLAYTEX  
PRODUCTS INC., RECKITT BENCKISER  
25 INC., ROCHE DIAGNOSTICS  
CORPORATION, SOFTSHEEN-CARSON  
26 LLC, SUN PRODUCTS CORPORATION,  
SUNSTAR AMERICAS INC.

27 Defendants.  
28

**STIPULATION STAYING ALL  
PROCEEDINGS UNTIL THE  
FEDERAL CIRCUIT ISSUES A FINAL  
DECISION IN *STAUFFER* AND  
SETTING DEADLINE FOR  
DEFENDANTS TO MOVE OR PLEAD  
TO 30 DAYS THEREAFTER AND  
~~[PROPOSED]~~ ORDER**

1 Plaintiff San Francisco Technology Inc. ("Plaintiff") and the undersigned defendants, The  
2 Glad Products Company, Bajer Design & Marketing Inc., Colgate-Palmolive Company, Combe  
3 Incorporated, and Reckitt Benckiser Inc. ("Defendants"), through their respective counsel, hereby  
4 make the following stipulation (the "Stipulation").

5 WHEREAS, Plaintiff filed its complaint (D.I. 1) on March 5, 2010 (the "Complaint")  
6 alleging that each of the Defendants has falsely marked articles in violation of 35 U.S.C. § 292;

7 WHEREAS, Plaintiff had earlier filed a substantially similar complaint asserting the same  
8 false marking claim against other defendants in *San Francisco Technology Inc. v. Adobe Systems*  
9 *Incorporated, et al.*, Case No. 2009-06083 ("Adobe"), on December 30, 2009;

10 WHEREAS, on April 13, 2010, after full briefing and argument, Judge Seeborg of the  
11 Northern District of California stayed *Adobe* pending resolution of *Stauffer v. Brooks Bros.*,  
12 Appeal Nos. 2009-1428, 2009-1430, 2009-1453 ("*Stauffer*");

13 WHEREAS, Judge Seeborg held in *Adobe* that the circumstances in which a private party  
14 has standing under Article III of the United States Constitution to bring a *qui tam* action for false  
15 patent marking under 35 U.S.C. § 292(b) is an issue of first impression currently pending before  
16 the United States Court of Appeals for the Federal Circuit in *Stauffer*;

17 WHEREAS, Judge Seeborg held that once the *Stauffer* decision is rendered, the Federal  
18 Circuit's reasoning and analysis will likely bear directly on this Court's consideration of the  
19 pending motions to dismiss for lack of subject matter jurisdiction;

20 WHEREAS, the parties agree that Judge Seeborg's reasoning is equally applicable to this  
21 proceeding and, therefore, stipulate and agree that all claims asserted herein against Defendants,  
22 The Glad Products Company, Colgate-Palmolive Company, Bajer Design & Marketing Inc.,  
23 Combe Incorporated, and Reckitt Benckiser Inc. should be stayed pending a final decision by the  
24 Federal Circuit;

25 WHEREAS, the Stipulation would stay the hearings and all related proceedings on the  
26 Motion to Dismiss (D.I. 76) and Motion to Stay (D.I. 94) filed by Bajer Design & Marketing Inc.  
27 on April 8, 2010;

1 WHEREAS, the Stipulation would stay the hearing and all related proceedings on the  
2 Motion to Dismiss (D.I. 83) filed by Colgate-Palmolive Company on April 8, 2010;

3 WHEREAS, of the Defendants, The Glad Products Company and Reckitt Benckiser Inc.  
4 have each previously stipulated with Plaintiff to extend time to respond to the Complaint,  
5 pursuant to Civil Local Rule 6-1(a), to May 14, 2010 (D.I. 64 and D.I. 56, respectively);

6 WHEREAS, the purpose of the stay is to narrow the litigated issues in this case and the  
7 stipulating parties have agreed to further narrow the litigated issues in this case by agreeing not to  
8 object to venue and personal jurisdiction in the Northern District of California for this case;

9 WHEREAS, the requested time modification would have no other effect on the schedule  
10 for the case because currently no trial date has been set; and

11 WHEREAS, the parties herein have agreed to stay all proceedings until the Federal  
12 Circuit issues a final decision in the *Stauffer* decision (or further order of the Court).

13 THE PARTIES HEREBY STIPULATE THAT:

14 These proceedings and all aspects of the case with respect to Defendants, The Glad  
15 Products Company, Colgate-Palmolive Company, Bajer Design & Marketing Inc., Combe  
16 Incorporated and Reckitt Benckiser Inc., are hereby stayed until 1) the Federal Circuit issues a  
17 final decision in *Stauffer v. Brooks Bros.*, Appeal Nos. 2009-1428, 2009-1430, 2009-1453 (i.e., at  
18 the expiration of time to file a petition for rehearing or the denial of a timely-filed petition), and 2)  
19 further order of the Court in accordance with the Federal Circuit's decision in *Stauffer*;

20 The responsive pleadings of Defendants, The Glad Products Company, Colgate-Palmolive  
21 Company, Bajer Design & Marketing Inc., and Reckitt Benckiser Inc., are hereby due 30 days  
22 thereafter; and

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1 The stipulating parties have agreed not to object to venue and personal jurisdiction in the  
2 Northern District of California for this case.

3  
4 Respectfully submitted,

5 Dated: May 13, 2010

JONES DAY

6  
7 By: /s/ Pamela K. Fulmer  
8 Pamela K. Fulmer  
9 Counsel for Defendant Reckitt  
Benckiser Inc.

10 In accordance with General Order No. 45, Section X(B), the above signatory attests that  
11 concurrence in the filing of this document has been obtained from the signatories below.

12 Dated: May 13, 2010

MOUNT & STOELKER, P.C.

13  
14 By: /s/ Daniel H. Fingerman  
15 Daniel H. Fingerman  
16 MOUNT & STOELKER, P.C.  
17 333 West San Carlos Street,  
18 Suite 1650  
19 San Jose CA 95110  
Telephone: (408) 279-7000  
Facsimile: (408) 998-1473  
Counsel for Plaintiff San Francisco  
Technology Inc.

20 Dated: May 13, 2010

FARELLA BRAUN & MARTEL LLP

21  
22 By: /s/ Roderick Manley Thompson  
23 Roderick Manley Thompson  
24 FARELLA BRAUN & MARTEL LLP  
25 235 Montgomery Street, 17th Floor  
26 San Francisco, CA 94104  
Telephone: (415) 954-4400  
Facsimile: (415) 954-4480  
Counsel for Defendant The Glad  
Products Company

1 Dated: May 13, 2010

HANSON BRIDGETT LLP

2  
3 By: /s/ Stephen B. Peck

4 Stephen B. Peck  
5 HANSON BRIDGETT LLP  
6 425 Market Street, 26th Floor  
7 San Francisco, CA 94105  
8 Telephone: (415) 777-3200  
9 Facsimile: (415) 551-9366  
10 Counsel for Defendant Bajer Design &  
11 Marketing Inc.

12 Dated: May 13, 2010

KIRKLAND & ELLIS LLP

13 By: /s/ David K. Callahan

14 David K. Callahan  
15 KIRKLAND & ELLIS LLP  
16 300 North LaSalle Street  
17 Chicago, IL 60654  
18 Telephone: (312) 862-2182  
19 Facsimile: (312) 862-2200  
20 Counsel for Defendant Colgate-  
21 Palmolive Company

22 Dated: May 13, 2010

MCMANIS FAULKNER

23 By: /s/ Matthew Schechter

24 Matthew Schechter  
25 MCMANIS FAULKNER  
26 50 West San Fernando Street  
27 10th Floor  
28 San Jose, CA 95113  
Telephone: (408) 279-8700  
Counsel for Defendant Combe  
Incorporated

1 **PURSUANT TO STIPULATION, IT IS SO ORDERED:**

2  
3 Dated: May 28, 2010

By: 

THE HON. JEFFREY FOGEL  
United States District Court Judge